

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B. P. J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:21-cv-00316
Judge Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY
BOARD OF EDUCATION, WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION,
W. CLAYTON BURCH, in his official
Capacity as State Superintendent, DORA
STUTLER, in her official capacity as
Harrison County Superintendent, and
THE STATE OF WEST VIRGINIA,**

Defendants.

and LAINEY ARMISTEAD,

Intervenor Defendant.

**DEFENDANT STATE OF WEST VIRGINIA’S MOTION IN LIMINE TO EXCLUDE
THE GOVERNOR’S STATEMENTS (HEARSAY AND RELEVANCE)**

Defendant, State of West Virginia, pursuant to Fed. R. Evid. 801 and 402, respectfully moves for an order *in limine* to exclude the Governor’s out-of-court statements because they are hearsay and irrelevant. Based on Plaintiff’s Memorandum in Support of Motion for Summary Judgment, the State of West Virginia expects Plaintiff to attempt to introduce statements made by Governor Justice in an effort to show that there was no need for H.B. 3293, thus supposedly necessarily leading to the conclusion that its enactment was a product of animus.

In any event, these statements are out-of-court oral statements. They apparently were first published on MSNBC News then posted to various social media pages. They are hearsay without any valid exceptions. *See* Fed. R. Evid. 801. They are also not relevant to any issues in the case. The grounds for this Motion are more fully set forth in the Memorandum in Support below.

Therefore, the State requests that its Motion *in Limine* be granted.

Respectfully submitted,

PATRICK MORRISEY

West Virginia Attorney General

/s/ Curtis R. A. Capehart

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Curtis R.A. Capehart (WV Bar # 9876)

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CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of June 2022, I electronically filed the foregoing Motion with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart
Curtis R. A. Capehart